

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

EDDY PORTER and JANET
PORTER,

Plaintiffs,

-VS-

UNITED HOME AND INSURANCE
COMPANY,

Defendant.

Case No. CIV-20-1079-F

ORDER

Defendant has filed a notice (doc. no. 10) of a constitutional question. The notice states that defendant is challenging the constitutionality of 23 O.S. § 9.1 on the grounds that Oklahoma's punitive damages statute violates the Due Process Clause of the Fourteenth Amendment and does not comply with standards and limitations set forth by the United States Supreme Court. Defendant states that its challenge to the constitutionality of § 9.1 was raised in its answer, filed on October 30, 2020 (doc. no. 4), a copy of which is attached to the notice.


The State of Oklahoma is not a party to this action. The subject matter of the constitutional issue affects the public interest. Title 28 U.S.C. § 2403 and Rule 5.1, Fed. R. Civ. P., require the court to certify the above facts to the Attorney General of the State of Oklahoma, and the court hereby does so. *See, State of Oklahoma v. Pope*, 516 F.3d 1214 (10th Cir. 2008) (remanding where notice not given to United States Attorney General).

Accordingly, if he wishes to do so, the Oklahoma State Attorney General is granted leave to intervene in this action for purposes of presenting evidence and

argument on the constitutional challenge raised by the defendant. The State Attorney General may intervene within sixty days of the date of this order.

The clerk is **DIRECTED** to provide the State Attorney General with a copy of this order, a copy of defendant's notice of constitutional question (doc. no. 10) including the exhibit (doc. no. 10-1), which is a copy of defendant's answer (originally filed at doc. no. 4), and a copy of the court's docket sheet in this action as it now stands. The clerk shall file the transmission email.

IT IS SO ORDERED this 18th day of December, 2020.


STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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